

AMENDED IN ASSEMBLY JUNE 27, 2006

AMENDED IN SENATE APRIL 27, 2006

SENATE BILL

No. 1848

Introduced by Senator Figueroa

March 23, 2006

~~An act to amend Section 7331 of, and to repeal and add Section 7303 of, the Business and Professions Code, relating to barbering and cosmetology, and declaring the urgency thereof, to take effect immediately. An act to amend Section 1791 of, and to add Section 1795.8 to, the Civil Code, relating to consumer warranties, and declaring the urgency thereof, to take effect immediately.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 1848, as amended, Figueroa. ~~Barbering and cosmetology.~~
Consumer warranties: members of the armed forces.

The Song-Beverly Consumer Warranty Act provides consumer warranty protection to buyers of various products, including new and used motor vehicles. That law requires every manufacturer of consumer goods sold in California for which the manufacturer has made an express warranty to maintain sufficient service and repair facilities, as specified, to carry out the terms of the warranties. That law requires a manufacturer or its representative who fails to service or repair goods pursuant to an express warranty, after a reasonable number of attempts, to replace those goods or to reimburse the buyer, as specified.

This bill would permit a member of the armed forces, as defined, who is stationed in or a resident of this state at the time he or she purchased a motor vehicle from a manufacturer who sells consumer goods in this state or when he or she filed an action under the

Song-Beverly Consumer Warranty Act, to exercise his or her rights under that act, regardless of in which state the vehicle is purchased or registered. This bill would require that a reasonable number of attempts to conform a motor vehicle to an applicable express warranty include service performed in another state by a manufacturer who sells motor vehicles in this state.

This bill would declare that it is to take effect immediately as an urgency statute.

~~Existing law, the Barbering and Cosmetology Act, establishes the State Board of Barbering and Cosmetology in the Department of Consumer Affairs consisting of 9 members. Existing law requires the board, subject to the approval of the director, to appoint an executive director to perform duties delegated by the board. Existing law provides that the provision relating to the board and the executive officer become inoperative on July 1, 2007, and are repealed on January 1, 2008. Existing law makes it unlawful for a person, firm, or corporation to engage in barbering, cosmetology, or electrolysis for compensation without a valid, unexpired license issued by the board. Existing law authorizes the board to grant a license to an applicant licensed in another state in barbering, cosmetology, or electrolysis if the applicant submits specified materials to the board.~~

~~This bill would repeal the provisions creating the board, and would create a new State Board of Barbering and Cosmetology. The provisions creating the new board would become inoperative on July 1, 2009, and would be repealed on January 1, 2010. The bill would also mandate that the board grant a license to an applicant licensed in barbering, cosmetology, or electrolysis in another state or a foreign country, and would revise the application requirements for such an applicant.~~

~~This bill would declare that it is to take effect immediately as an urgency statute.~~

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: ~~yes~~-no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1791 of the Civil Code, as amended by
- 2 Section 63 of Chapter 405 of the Statutes of 2002, is amended to
- 3 read:
- 4 1791. As used in this chapter:

1 (a) “Consumer goods” means any new product or part thereof
2 that is used, bought, or leased for use primarily for personal,
3 family, or household purposes, except for clothing and
4 consumables. “Consumer goods” shall include new and used
5 assistive devices sold at retail.

6 (b) “Buyer” or “retail buyer” means any individual who buys
7 consumer goods from a person engaged in the business of
8 manufacturing, distributing, or selling consumer goods at retail.
9 As used in this subdivision, “person” means any individual,
10 partnership, corporation, limited liability company, association,
11 or other legal entity that engages in any such business.

12 (c) “Clothing” means any wearing apparel, worn for any
13 purpose, including under and outer garments, shoes, and
14 accessories composed primarily of woven material, natural or
15 synthetic yarn, fiber, or leather or similar fabric.

16 (d) “Consumables” means any product that is intended for
17 consumption by individuals, or use by individuals for purposes of
18 personal care or in the performance of services ordinarily
19 rendered within the household, and that usually is consumed or
20 expended in the course of consumption or use.

21 (e) “Distributor” means any individual, partnership,
22 corporation, association, or other legal relationship that stands
23 between the manufacturer and the retail seller in purchases,
24 consignments, or contracts for sale of consumer goods.

25 (f) “Independent repair or service facility” or “independent
26 service dealer” means any individual, partnership, corporation,
27 association, or other legal entity, not an employee or subsidiary
28 of a manufacturer or distributor, that engages in the business of
29 servicing and repairing consumer goods.

30 (g) “Lease” means any contract for the lease or bailment for
31 the use of consumer goods by an individual, for a term exceeding
32 four months, primarily for personal, family, or household
33 purposes, whether or not it is agreed that the lessee bears the risk
34 of the consumer goods’ depreciation.

35 (h) “Lessee” means an individual who leases consumer goods
36 under a lease.

37 (i) “Lessor” means a person who regularly leases consumer
38 goods under a lease.

1 (j) “Manufacturer” means any individual, partnership,
2 corporation, association, or other legal relationship that
3 manufactures, assembles, or produces consumer goods.

4 (k) “Place of business” means, for the purposes of any retail
5 seller that sells consumer goods by catalog or mail order, the
6 distribution point for these goods.

7 (l) “Retail seller,” “seller,” or “retailer” means any individual,
8 partnership, corporation, association, or other legal relationship
9 that engages in the business of selling or leasing consumer goods
10 to retail buyers.

11 (m) “Return to the retail seller” means, for the purposes of any
12 retail seller that sells consumer goods by catalog or mail order,
13 the retail seller’s place of business, as defined in subdivision (k).

14 (n) “Sale” means either of the following:

15 (1) The passing of title from the seller to the buyer for a price.

16 (2) A consignment for sale.

17 (o) “Service contract” means a contract in writing to perform,
18 for an additional cost, over a fixed period of time or for a
19 specified duration, services relating to the maintenance,
20 replacement, or repair of a consumer product, except that this
21 term does not include a policy of automobile insurance, as
22 defined in Section 116 of the Insurance Code.

23 (p) “Service contract administrator” or “administrator” means
24 a person, other than a service contract seller or an insurer
25 admitted to do business in this state, who performs or arranges,
26 or has an affiliate who performs or arranges, the collection,
27 maintenance, or disbursement of moneys to compensate any
28 party for claims or repairs pursuant to a service contract, and who
29 also performs or arranges, or has an affiliate who performs or
30 arranges, any of the following activities on behalf of service
31 contract sellers:

32 (1) Providing service contract sellers with service contract
33 forms.

34 (2) Participating in the adjustment of claims arising from
35 service contracts.

36 (3) Arranging on behalf of service contract sellers the
37 insurance required by Section 9855.2 of the Business and
38 Professions Code. A service contract administrator shall not be
39 an obligor on a service contract.

1 (q) “Service contract seller” or “seller” means a person who
2 sells or offers to sell a service contract to a service
3 contractholder, including a person who is the obligor under a
4 service contract sold by the seller, manufacturer, or repairer of
5 the product covered by the service contract.

6 (r) “Service contractor” means a service contract administrator
7 or a service contract seller.

8 (s) “Assistive device” means any instrument, apparatus, or
9 contrivance, including any component or part thereof or
10 accessory thereto, that is used or intended to be used, to assist an
11 individual with a disability in the mitigation or treatment of an
12 injury or disease or to assist or affect or replace the structure or
13 any function of the body of an individual with a disability, except
14 that this term does not include prescriptive lenses and other
15 ophthalmic goods unless they are sold or dispensed to a blind
16 person, as defined in Section 19153 of the Welfare and
17 Institutions Code, and unless they are intended to assist the
18 limited vision of the person so disabled.

19 (t) “Catalog or similar sale” means a sale in which neither the
20 seller nor any employee or agent of the seller nor any person
21 related to the seller nor any person with a financial interest in the
22 sale participates in the diagnosis of the buyer’s condition or in
23 the selection or fitting of the device.

24 (u) “Home appliance” means any refrigerator, freezer, range,
25 microwave oven, washer, dryer, dishwasher, garbage disposal,
26 trash compactor, room air-conditioner, or other kind of appliance
27 product normally used or sold for personal, family, or household
28 purposes.

29 (v) “Home electronic product” means any television, radio,
30 antenna rotator, audio or video recorder or playback equipment,
31 video camera, video game, video monitor, computer equipment,
32 telephone, telecommunications equipment, electronic alarm
33 system, electronic appliance control system, or other kind of
34 electronic product, if it is normally used or sold for personal,
35 family, or household purposes. The term includes any electronic
36 accessory that is normally used or sold with a home electronic
37 product for one of those purposes. The term excludes any single
38 product with a wholesale price to the retail seller of less than fifty
39 dollars (\$50).

(w) “Obligor” is the entity financially and legally obligated under the terms of a service contract.

(x) “*Member of the armed forces*” means a person on full-time active duty in the Army, Navy, Marine Corps, Air Force, National Guard, or Coast Guard. Full-time active duty shall also include active military service at a military service school designated by law or the Secretary of the military department concerned.

This section shall remain in effect only until January 1, 2008, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2008, deletes or extends that date.

SEC. 2. Section 1791 of the Civil Code, as amended by Section 62 of Chapter 405 of the Statutes of 2002, is amended to read:

1791. As used in this chapter:

(a) “Consumer goods” means any new product or part thereof that is used, bought, or leased for use primarily for personal, family, or household purposes, except for clothing and consumables. “Consumer goods” shall include new and used assistive devices sold at retail.

(b) “Buyer” or “retail buyer” means any individual who buys consumer goods from a person engaged in the business of manufacturing, distributing, or selling consumer goods at retail. As used in this subdivision, “person” means any individual, partnership, corporation, limited liability company, association, or other legal entity that engages in any of these businesses.

(c) “Clothing” means any wearing apparel, worn for any purpose, including under and outer garments, shoes, and accessories composed primarily of woven material, natural or synthetic yarn, fiber, or leather or similar fabric.

(d) “Consumables” means any product that is intended for consumption by individuals, or use by individuals for purposes of personal care or in the performance of services ordinarily rendered within the household, and that usually is consumed or expended in the course of consumption or use.

(e) “Distributor” means any individual, partnership, corporation, association, or other legal relationship that stands between the manufacturer and the retail seller in purchases, consignments, or contracts for sale of consumer goods.

1 (f) “Independent repair or service facility” or “independent
2 service dealer” means any individual, partnership, corporation,
3 association, or other legal entity, not an employee or subsidiary
4 of a manufacturer or distributor, that engages in the business of
5 servicing and repairing consumer goods.

6 (g) “Lease” means any contract for the lease or bailment for
7 the use of consumer goods by an individual, for a term exceeding
8 four months, primarily for personal, family, or household
9 purposes, whether or not it is agreed that the lessee bears the risk
10 of the consumer goods’ depreciation.

11 (h) “Lessee” means an individual who leases consumer goods
12 under a lease.

13 (i) “Lessor” means a person who regularly leases consumer
14 goods under a lease.

15 (j) “Manufacturer” means any individual, partnership,
16 corporation, association, or other legal relationship that
17 manufactures, assembles, or produces consumer goods.

18 (k) “Place of business” means, for the purposes of any retail
19 seller that sells consumer goods by catalog or mail order, the
20 distribution point for consumer goods.

21 (l) “Retail seller,” “seller,” or “retailer” means any individual,
22 partnership, corporation, association, or other legal relationship
23 that engages in the business of selling or leasing consumer goods
24 to retail buyers.

25 (m) “Return to the retail seller” means, for the purposes of any
26 retail seller that sells consumer goods by catalog or mail order,
27 the retail seller’s place of business, as defined in subdivision (k).

28 (n) “Sale” means either of the following:

- 29 (1) The passing of title from the seller to the buyer for a price.
30 (2) A consignment for sale.

31 (o) “Service contract” means a contract in writing to perform,
32 over a fixed period of time or for a specified duration, services
33 relating to the maintenance or repair of a consumer product,
34 except that this term does not include a policy of automobile
35 insurance, as defined in Section 116 of the Insurance Code.

36 (p) “Assistive device” means any instrument, apparatus, or
37 contrivance, including any component or part thereof or
38 accessory thereto, that is used or intended to be used, to assist an
39 individual with a disability in the mitigation or treatment of an
40 injury or disease or to assist or affect or replace the structure or

1 any function of the body of an individual with a disability, except
2 that this term does not include prescriptive lenses and other
3 ophthalmic goods unless they are sold or dispensed to a blind
4 person, as defined in Section 19153 of the Welfare and
5 Institutions Code and unless they are intended to assist the
6 limited vision of the person so disabled.

7 (q) “Catalog or similar sale” means a sale in which neither the
8 seller nor any employee or agent of the seller nor any person
9 related to the seller nor any person with a financial interest in the
10 sale participates in the diagnosis of the buyer’s condition or in
11 the selection or fitting of the device.

12 (r) “Home appliance” means any refrigerator, freezer, range,
13 microwave oven, washer, dryer, dishwasher, garbage disposal,
14 trash compactor, or room air-conditioner normally used or sold
15 for personal, family, or household purposes.

16 (s) “Home electronic product” means any television, radio,
17 antenna rotator, audio or video recorder or playback equipment,
18 video camera, video game, video monitor, computer equipment,
19 telephone, telecommunications equipment, electronic alarm
20 system, electronic appliance control system, or other kind of
21 electronic product, if it is normally used or sold for personal,
22 family, or household purposes. The term includes any electronic
23 accessory that is normally used or sold with a home electronic
24 product for one of those purposes. The term excludes any single
25 product with a wholesale price to the retail seller of less than fifty
26 dollars (\$50).

27 (t) “*Member of the armed forces*” means a person on full-time
28 active duty in the Army, Navy, Marine Corps, Air Force,
29 National Guard, or Coast Guard. Full-time active duty shall also
30 include active military service at a military service school
31 designated by law or the Secretary of the military department
32 concerned.

33 This section shall become operative on January 1, 2008.

34 SEC. 3. Section 1795.8 is added to the Civil Code, to read:

35 1795.8. (a) *This chapter shall apply to a member of the*
36 *armed forces who purchases a new or used motor vehicle with a*
37 *manufacturer’s express warranty, regardless of in which state his*
38 *or her motor vehicle is purchased or registered, if both of the*
39 *following apply:*

1 (1) *The member of the armed forces purchases a new or used*
2 *motor vehicle from a manufacturer who sells motor vehicles in*
3 *this state.*

4 (2) *The member of the armed forces was stationed in or a*
5 *resident of this state at the time he or she purchased the motor*
6 *vehicle or at the time he or she filed an action pursuant to this*
7 *chapter.*

8 (b) *Notwithstanding paragraphs (1) and (2) of subdivision (d)*
9 *of Section 1793.2, a reasonable number of attempts to conform*
10 *the motor vehicle to the applicable express warranty shall*
11 *include work at a service and repair facility in any state if that*
12 *service and repair facility is authorized to carry out the terms of*
13 *the warranties by a manufacturer who sells motor vehicles in this*
14 *state.*

15 SEC. 4. *This act is an urgency statute necessary for the*
16 *immediate preservation of the public peace, health, or safety*
17 *within the meaning of Article IV of the Constitution and shall go*
18 *into immediate effect. The facts constituting the necessity are:*

19 *In order to ensure that the health and safety of the public is*
20 *maintained, it is necessary that this bill take effect immediately.*

21 ~~SECTION 1. Section 7303 of the Business and Professions~~
22 ~~Code is repealed.~~

23 ~~SEC. 2. Section 7303 is added to the Business and~~
24 ~~Professions Code, to read:~~

25 ~~7303. (a) Notwithstanding Article 8 (commencing with~~
26 ~~Section 9148) of Chapter 1.5 of Part 1 of Division 2 of Title 2 of~~
27 ~~the Government Code, there is in the Department of Consumer~~
28 ~~Affairs the State Board of Barbering and Cosmetology in which~~
29 ~~the administration of this chapter is vested.~~

30 ~~(b) The board shall consist of nine members. Five members~~
31 ~~shall be public members and four members shall represent the~~
32 ~~professions. The Governor shall appoint three of the public~~
33 ~~members and the four professions members. The Senate~~
34 ~~Committee on Rules and the Speaker of the Assembly shall each~~
35 ~~appoint one public member. Members of the board shall be~~
36 ~~appointed for a term of four years, except that of the members~~
37 ~~appointed by the Governor, two of the public members and two~~
38 ~~of the professions members shall be appointed for an initial term~~
39 ~~of two years. No board member may serve longer than two~~
40 ~~consecutive terms.~~

1 ~~(e) The board shall appoint an executive officer who is exempt~~
2 ~~from civil service. The executive officer shall exercise the~~
3 ~~powers and perform the duties delegated by the board and vested~~
4 ~~in him or her by this chapter. The appointment of the executive~~
5 ~~officer is subject to the approval of the director. In the event that~~
6 ~~a newly authorized board replaces an existing or previous bureau,~~
7 ~~the director may appoint an interim executive officer for the~~
8 ~~board who shall serve temporarily until the new board appoints a~~
9 ~~permanent executive officer.~~

10 ~~(d) The executive officer shall provide examiners, inspectors,~~
11 ~~and other personnel necessary to carry out the provisions of this~~
12 ~~chapter.~~

13 ~~(e) This section shall become inoperative on July 1, 2009, and,~~
14 ~~as of January 1, 2010, is repealed, unless a later enacted statute,~~
15 ~~which becomes effective on or before January 1, 2010, deletes or~~
16 ~~extends the dates on which it becomes inoperative and is~~
17 ~~repealed.~~

18 ~~SEC. 3. Section 7331 of the Business and Professions Code is~~
19 ~~amended to read:~~

20 ~~7331. The board shall grant a license to practice to an~~
21 ~~applicant if the applicant submits all of the following to the~~
22 ~~board:~~

23 ~~(a) A completed application form and all fees required by the~~
24 ~~board.~~

25 ~~(b) Proof of a current license issued by another state to~~
26 ~~practice that meets all of the following requirements:~~

27 ~~(1) It is not revoked or suspended or otherwise restricted.~~

28 ~~(2) It is in good standing.~~

29 ~~(3) It has been active for three of the last five years, during~~
30 ~~which time the applicant has not been subject to disciplinary~~
31 ~~action or a criminal conviction.~~

32 ~~SEC. 4. This act is an urgency statute necessary for the~~
33 ~~immediate preservation of the public peace, health, or safety~~
34 ~~within the meaning of Article IV of the Constitution and shall go~~
35 ~~into immediate effect. The facts constituting the necessity are:~~

36 ~~In order to ensure that the health and safety of the public be~~
37 ~~maintained, it is necessary that this bill take effect immediately.~~